

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

BRAHEEM POTEAT,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 07-639-GMS
)	
PERRY PHELPS, Warden, and)	
ATTORNEY GENERAL OF)	
THE STATE OF DELAWARE,)	
)	
)	
Respondents. ¹)	

ORDER TO REOPEN

WHEREAS, petitioner Braheem Poteat filed a petition for the writ of habeas corpus pursuant to 28 U.S.C. § 2254 on October 16, 2007 (D.I. 1.); and

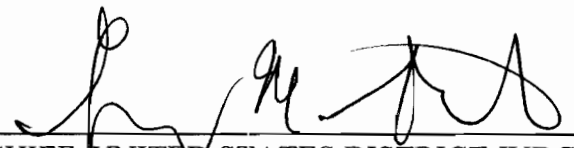
WHEREAS, the court sent Poteat an AEDAPA election form informing him of his rights and providing him with an opportunity to indicate how he wished to proceed (D.I. 4.); and

WHEREAS, after receiving Poteat's AEDPA election form on November 26, 2007 indicating his wish to voluntarily dismiss his habeas petition, the court dismissed Poteat's petition without prejudice on December 17, 2007 (D.I. 5; D.I. 6.); and

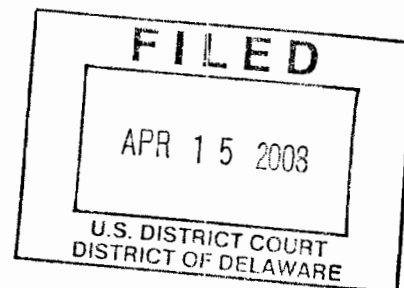
WHEREAS, on February 27, 2008, Poteat filed a letter motion stating that he had not intended to voluntarily dismiss his case, and asking the court to reopen his habeas proceeding.

¹Warden Perry Phelps assumed office in January 2008, replacing former warden Thomas Carroll, an original party to this case. See Fed. R. Civ. P. 25(d)(1).

NOW, THEREFORE, IT IS ORDERED this 14th day of April, 2008, that Poteat's letter motion to reopen his § 2254 petition is **GRANTED**. (D.I. 7.) **Poteat shall have 30 days to file the attached AEDPA election form** indicating his intent with respect to his original petition. Failure to timely file the attached election form will result in the court's ruling on Poteat's original petition as filed on October 16, 2007.



CHIEF, UNITED STATES DISTRICT JUDGE



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PERRY PHELPS,)	
Warden, and ATTORNEY)	
GENERAL OF THE STATE)	
OF DELAWARE,)	
)	
Respondents.)	

AEDPA ELECTION FORM

1. _____ I wish the court to rule on my § 2254 petition as filed on October 16, 2007. I realize that the law does not allow me to file successive or later petitions unless I receive certification to do so from the United States Court of Appeals for the Third Circuit; therefore, this petition will be my one opportunity to seek federal habeas corpus relief.

2. _____ I wish to amend the § 2254 petition filed on October 16, 2007 to include all the grounds I have. I will do so within thirty (30) days. I realize that the law does not allow me to file successive or later petitions unless I receive certification to do so from the United States Court of Appeals for the Third Circuit; therefore, this amended all-inclusive petition will be my one opportunity to seek federal habeas corpus relief.

3. _____ I wish to withdraw my § 2254 petition without prejudice to file one all-inclusive petition in the future; that is, one that raises all the grounds I have for federal habeas corpus relief. I realize this all-inclusive petition must be filed within the one-year period as defined by 28 U.S.C. § 2244(d). *See Swartz v. Meyers*, 204 F.3d 417 (3d Cir. 2000).

4. _____ I am not seeking federal habeas corpus relief under § 2254. I am instead seeking relief under _____.

Petitioner